

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

JOSHUA FORSTER,

Plaintiff,

v.

STEPHANIE CLENDENIN, et al.,

Defendants.

Case No.: 1:22-cv-01191-ADA-CDB (PC)

**ORDER DISCHARGING SHOW CAUSE
ORDER**

(Doc. 25)

**ORDER LIFTING PREVIOUSLY
IMPOSED STAY**

**ORDER DIRECTING CLERK OF THE
COURT TO ISSUE DISCOVERY AND
SCHEDULING ORDER**

Plaintiff Joshua Forster is a civil detainee proceeding pro se and *in forma pauperis* in this civil rights action brought pursuant to 42 U.S.C. § 1983. This action proceeds against Defendants Clendenin and Price for violations of Plaintiff's Fourteenth Amendment rights and related state law violations.

I. RELEVANT PROCEDURAL BACKGROUND

On July 24, 2023, this Court issued its Order Referring Case to Post-Screening ADR and Staying Case for 90 Days. (Doc. 17.) Specifically, the Court ordered the parties to file notice, within 45 days, indicating whether they believed an early settlement conference would be productive in this matter. (*Id.* at 2.)

On August 2, 2023, Plaintiff filed his Notice Regarding Early Settlement Conference,

1 indicating a willingness to participate in an early settlement conference. (Doc. 18.)

2 After more than 45 days passed, on September 11, 2023, the Court issued its Order To
3 Defendants To Show Cause Why Sanctions Should Not Be Imposed For Failure To File A Notice
4 Regarding Early Settlement Conference (“OSC”). (Doc. 25.) That same date, Defendants filed
5 their Notice Regarding Early Settlement Conference, indicating defense counsel did not believe
6 an early settlement conference would be productive. (Doc. 26.)

7 To determine whether neglect is excusable, a court must consider four factors: “(1) the
8 danger of prejudice to the opposing party; (2) the length of the delay and its potential impact on
9 the proceedings; (3) the reason for the delay; and (4) whether the movant acted in good faith.” *In*
10 *re Veritas Software Corp. Sec. Litig.*, 496 F.3d 962, 973 (9th Cir. 2007). The Court finds Counsel
11 for Defendants prompt filing immediately following entry of the OSC demonstrates Defendants’
12 failure to follow the Court’s orders constitutes excusable neglect.

13 Because Defendants do not believe an early settlement conference would be productive,
14 the Court will lift the previously imposed stay and issue a discovery and scheduling order.

15 II. CONCLUSION AND ORDER

16 Accordingly, **IT IS HEREBY ORDERED** that:

- 17 1. The previously issued OSC (Doc. 25) is **DISCHARGED**;
- 18 2. The previously imposed 90-day stay of this is action is **LIFTED**; and
- 19 3. The Clerk of the Court is **DIRECTED** to issue a discovery and scheduling order in
20 this matter.

21 IT IS SO ORDERED.

22 Dated: September 13, 2023

23 
UNITED STATES MAGISTRATE JUDGE